

REMARKS

Claims 12 and 14-17 remain in this application. Claims 1-11, 13, and 18 have been canceled. Claims 19 and 20 were added and those amendments are supported by the specification. See page 6, lns. 14-16. Applicants reserve the right to file divisional applications to all cancelled claims. Remarks shall respond to objections and rejections to pending claims.

Claim 14 was rejected under 35 U.S.C. § 112, second paragraph. Claim 14 was amended to recite "reduced to about -70 kPA" This amendment overcomes the PTO's objection to claim 14.

Applicants respectfully submit that the rejection of claim 14 under 35 U.S.C. § 112, second paragraph has been overcome and should be withdrawn.

Claims 12, and 14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fraim et al. The PTO asserts that [a]s to claim 12, Fraim et al. teach a method for detecting leaks in a sealed package 100 which comprises ... " Applicants traverse this rejection for the following reason. Fraim et al. teach increasing the pressure in a closed chamber to produce a concave membrane followed by reducing the pressure in the same closed chamber and measuring at what pressure the transitions from concave to a convex membrane occurs. The invention of Claim 12 detects leaks by reducing pressure in a closed chamber followed the determination of whether switch is opened or closed.

Specifically, Fraim et al.'s teach that leaks can be measured if one "elevate [s] the pressure in the chambers 300 to about 15 psi. When the pressure is applied, the displacement of the membrane will be concave. After maintaining the elevated pressure for a short time (e.g.) 35 seconds) valve 315 is adjusted to apply a vacuum ... when the vacuum is the defection of the membranes will be convex. Immediately after the desired

level of vacuum is obtained, valve 315 is return to the position in which pressure source 320 applied pressure to the chamber. When the pressure in the chamber increases to a sufficient level, the membranes of a sealed container will move a convex to a concave position. The sensors 340 measure displacement of the membranes during the pressure variation cycle." See Fraim col. 6, lns. 28-43. See also, col. 5, lns. 18-33 and Fig. 2. Applicants' method of detecting leaks in at least one sealed contact lens package are different.

Applicants detect leaks in at least one sealed contact lens package by "loading at least one sealed contact lens package to a chamber ... closing said chamber and reducing the pressure in said chamber to a level below the internal pressure of said at least one contact lens package and its contents; and determining whether a mechanical switch is opened or closed. A method of leak detections that reduces pressure and determines if a switch is open or closed is not anticipated by a leak detection method that elevates pressure and subsequently reduces pressure and measures the pressure differentials at the time a deformable closure moves. Applicants respectfully submit that the rejection of claims 12 and 14 under 35 U.S.C. § 102(b) has been overcome and should be withdrawn.

Pending claim 13 was rejected under 35 U.S.C. § 103(a) in view of Fraim et al. The PTO asserted that "Fraim et al. teach all of the limitations as set for above but do not specifically point to the apparatus or method of being used to test ophthalmic lens packages. However, because the apparatus and method of Fraim is inherently capable of being used to test ophthalmic lens packages, it would have been obvious to one of ordinary skill in the art to use them for this purpose." Applicants' transverse this rejection for the following reason.

As stated above, Fraim et al. does not teach Applicants' method of detecting leaks in contact lens packages. Further there is no suggestion to use the methods of Fraim et al. to detect leaks in contact lens packages. Although the PTO has asserted that the methods of Fraim et al. could inherently be used to detect leaks in contact lens packages, the PTO does not supports this assertion by using a suggestion in the art, the PTO uses impermissible hindsight to support this rejection. Applicants respectfully submit that the rejection of claim 13 under 35 U.S.C. § 103(a) in view of Fraim et al. has been overcome and should be withdrawn.

Claims 16 and 17 were rejected under 35 U.S.C. § 103(a) in view of Fraim et al. The PTO asserted that "Fraim et al. teach all of the limitations as set forth above but do not mentions the amount of time it takes to complete the method. However, it would have been obvious to one of ordinary skill in the art to complete the method in less than ... because it allows for greater efficiency and productivity in a manufacturing environment." Applicants traverse this rejection for the following reasons

As stated above, Fraim et al. does not teach Applicants' method of detecting leaks in contact lens packages. As correctly noted by the PTO, Fraim et al. does not mention the amount of time it takes to complete the method. Given that Fraim et al. does not teach Applicants' invention or mention the amount time, one of ordinary skill would not find the invention of claims 16 and 17 obvious in view of Fraim et al. Applicants respectfully submit that the rejection of claims 16 and 17 under 35 U.S.C. § 103(a) in view of Fraim et al. has been overcome and should be withdrawn.

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Fraim et al. in view of Perhach et al. The PTO

asserted that Fraim et al. teach all of the limitations as set forth above but do not teach the head of the mechanical switch being spring loaded against the surface of the deformable closure when the chamber is closed under atmospheric pressure. It would have been obvious to one of ordinary skill in the art to employ the teachings of Perhach with the method and apparatus of Fraim." Applicants traverse this rejection for the following reason.

As stated above, Fraim et al. does not teach Applicants' method of detecting leaks in contact lens. Even though Perhach et al. teach spring loading compressed between two bearing surfaces, it does not suggest Applicants' claimed invention. Therefore, one of ordinary skill would not find Applicants' invention obvious in view of Fraim et al. and Perhach et al. Applicants respectfully submit that the rejection of claim 15 under 35 U.S.C. § 103(a) in view Fraim et al. and Perhach et al. has been overcome and should be withdrawn.

Applicants have reviewed Mally et al. and Message. Neither reference teaches or suggests Applicants' claimed invention. Applicants respectfully submit that all rejections have been overcome and solicit a Notice of Allowance for all pending claims.

Respectfully submitted,

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